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**UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEVADA**

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

Chapter 11

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,
 Debtor.

Jointly Administered Under
 Case No. BK-S-06-10725 LBR

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

In re:
 USA SECURITIES, LLC,
 Debtor.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

**REPLY BRIEF IN SUPPORT OF
 CONTINUED APPLICATION BY
 DEBTOR AND DEBTOR-IN-
 POSSESSION FOR
 AUTHORIZATION TO RETAIN AND
 EMPLOY SCHWARTZER &
 McPHERSON LAW FIRM, RAY
 QUINNEY & NEBEKER, P.C., AND
 MESIROW INTERIM FINANCIAL
 MANAGEMENT**

Date: July 25, 2006
 Time: 9:30 a.m.

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1 The Debtors and Debtors-in Possession ("Debtors" or "DIP"), by and through their
 2 counsel, Jeanette E. McPherson, Esq. of Schwartz & McPherson Law Firm, hereby file their
 3 Reply Brief In Support Of Continued Application By Debtor And Debtor-in-Possession For
 4 Authorization To Retain And Employ Schwartz & McPherson Law Firm, Ray Quinney &
 5 Nebeker, P.C., And Mesirow Interim Financial Management.

6 This Reply Brief is made and based upon the Points And Authorities set forth herein, the
 7 pleadings on file, and any argument and evidence presented at the time of hearing.

8 POINTS AND AUTHORITIES

9 Facts

10 1. The Debtors filed their voluntary petitions for relief under Chapter 11 of Title 11 of
 11 the United States Bankruptcy Code on April 13, 2006 (the "Petition Date"), and the Debtors
 12 continue to operate their businesses and possess their property as debtors-in-possession pursuant
 13 to Bankruptcy Code §§ 1107 and 1108.

14 2. On the Petition Date, Thomas J. Allison ("Allison") of Mesirow Interim Financial
 15 Management became the President of USA Commercial Mortgage Company ("USACM") and the
 16 Manager of the four remaining Debtors who are limited liability companies. In an order entered
 17 April 19, 2006, this Court authorized the Debtors' employment of Allison as the Chief
 18 Restructuring Officer for an interim period until July 27, 2006.

19 3. On April 18, 2006, an Application By Debtor And Debtor-in-Possession For
 20 Authorization To Retain And Employ Schwartz & McPherson Law Firm As Counsel Under
 21 General Retainer was filed ("S&M Application").

22 4. On April 18, 2006, an Application By Debtor And Debtor-in-Possession For
 23 Authorization To Retain And Employ Ray Quinney & Nebeker, P.C. As Counsel for the Debtors
 24 was filed (the "RQN Application").

25 5. Prior to the hearing on the S&M Application and the RQN Application, the Office
 26 of the United States Trustee ("UST") had filed oppositions, raising its concerns regarding conflicts
 27 of interest in the representation of S&M and RQN of all of the Debtors. RQN and S&M filed
 28 responses to the UST's opposition. At the hearing on the S&M Application and the RQN

Application, the Court reviewed the pleadings filed and considered the issues regarding the representation by S&M and RQN of all of the Debtors.

6. On June 5, 2006, an Order Granting Application By Debtor And Debtor-in-Possession For Authorization To Retain And Employ Schwartz & McPherson Law Firm As Counsel Under General Retainer and an Order Granting Application By Debtor And Debtor-in-Possession For Authorization To Retain And Employ Ray Quinney & Nebeker, P.C. As Counsel Under General Retainer were entered. Each of these orders provided for the continued employment of S&M and RQN for the period of time that Mesirow would be employed and provided that the continued employment of Schwartz & McPherson would be heard on July 27, 2006.¹

7. On July 21, 2006, the UST filed a supplemental opposition to the employment of S&M and RQN (the "Supplement"). In the Supplement, the UST contends that there is an actual conflict of interest for S&M and RQN (not Mesirow) to represent all five debtors because: 1) special counsel, David Huston, Esq., was employed to represent the plaintiff, USA Commercial Mortgage ("USACM"), in connection with an interpleader action (the "Interpleader Action"), and 2) the Debtors have sought to obtain debtor in possession financing.

8. Also, on July 21, 2006, the four committees (the "Committees") filed a joint omnibus response to the continued employment of S&M, RQN, and Mesirow. In the Committees' Response filed on July 21, 2006 (the "Response"), the Committees state: 1) that the employment of S&M, RQN, and Mesirow (collectively, the "Debtors' Professionals") should be continued only for another interim period of 60 days (presumably from July 25, 2006), and 2) Debtors' Professionals should be ordered to allocate their time to each Debtor.

9. As stated previously in its response to the opposition to employment, the employment of S&M and RQN is not per se prohibited, and the employment of the S&M, RQN, and Mesirow would serve to alleviate duplicative efforts and avoid the fees and expenses incurred by five separate sets of counsel and five separate financial advisors/chief restructuring officers.

¹ The hearing has been moved to July 25, 2006 by stipulation of the Debtors and Debtors-in-possession and the four committees.

1 Requiring the Debtors to each have separate counsel and financial advisors would be a waste of
2 the Debtors' scarce resources, be unnecessarily duplicative, and financially disabling.

3 10. The Debtors are already concerned by the substantial financial burden arising from
4 the duplicative efforts and fees and costs incurred by the four separate committees that have been
5 appointed, each of whom has their own financial advisor.² While having separate counsel for each
6 Debtor and Committee may be the easiest approach to take mechanically, it does not provide the
7 best practical solution economically and one that serves the best interests of creditors and
8 investors. Notably, although the Debtors' Professionals have not seen any of the fees and costs of
9 the Committees, based upon oral representations that have been made, it is anticipated that the fees
10 and costs of the four separate Committees for an approximate two-month period is well in excess
11 of \$500,000.

12 Memorandum of Law

13 The Debtors' Professionals hereby supplement their previous filings only to the extent that
14 additional concerns have been raised by the UST in its Supplement and the Committees in its
15 Response and otherwise incorporate any prior response. The Debtors' Professionals request that
16 they be allowed to continue to represent all Debtors for another 60 days, or September 25, 2006, at
17 which time the Court can consider the continued employment of Debtors' Professionals.

18 The Debtors' Professionals believe that this time is necessary for them to continue to
19 maximize the distribution to investors and creditors in this case. The Debtors' Professionals
20 believe that this interim employment is in the best interests of all parties for several reasons. First,
21 new, multiple attorneys would create delay, as they will need to learn about the history and facts
22 pertaining to these debtors and their bankruptcy case. Second, new, multiple attorneys would
23 create substantial additional expense. This estate is already burdened by the expense of four
24 separate committees and their own separate financial advisors. Lastly, there are no actual conflicts
25 amongst the Debtors that are precluding the effective representation of each of the Debtors.

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² The Official Committee of Unsecured Creditors has selected a financial advisor whose employment is set for hearing on August 4, 2006.

1 The conflicts alleged by the UST are not actual conflicts. With regard to the Interpleader
 2 Action, special counsel has been employed to file this action. Because this is an interpleader
 3 action, USACM asserts that it has no interest in the funds interplead and therefore the named
 4 claimants/defendants (one of whom includes the FTDF fund) can determine who are the rightful
 5 owners. Also, the pending motion for debtor in possession financing has been withdrawn. Thus,
 6 there is no need to discuss any alleged conflicts arising as a result of this motion.

7 In addition, the Debtors' Professionals understand the Committees' concerns regarding the
 8 allocation of their time. As a result, Debtors' Professionals are in the process of assembling their
 9 time according to each Debtor through the period ending July 31, 2006. And, while Debtors'
 10 Professionals are faced with issues pertaining to allocation of fees and costs, Debtors'
 11 Professionals anticipate that Committee counsel is only billing for fees and costs as necessary to
 12 represent their respective constituencies and not for time reviewing pleadings and issues that
 13 pertain to other Debtors.

14 The Firm believes that its continued interim employment is appropriate in these
 15 circumstances due to the expense involved in hiring new general counsel for each Debtor
 16 compared to any alleged benefits. Hiring separate counsel for each of the Debtors will be much
 17 more expensive due to the likely duplication of legal services and fees and the additional costs. In
 18 addition, there is likely to be a significant interruption in the orderly administration of these cases.
 19 Further, the ultimate goal of bankruptcy, one of which is to maximize the distribution to all
 20 creditors as quickly as possible, must be accorded significant weight in these cases. If this goal is
 21 not considered, and the cases disqualifying counsel due to potential conflicts of interest are rigidly
 22 followed, the goal of reorganization and maximization of distributions may not be able to be
 23 achieved. Instead, Debtors' Professionals request that this Court weigh and balance the needs for
 24 effective representation against the policies underlying bankruptcies and allow for the continued
 25 interim employment of Debtors' Professionals. This interim employment, along with the
 26 appointment of special counsel to represent the Debtors in limited circumstances, serves as the
 27 most cost effective and efficient means of administering these cases while allowing for any
 28 potential conflict issues to be properly addressed and handled.

1 **CONCLUSION**

2 Based upon the foregoing, the Firm respectfully requests that this Court determine that the
3 Debtors' Professionals be allowed to continue to represent all of the Debtors until September 25,
4 2006, at which time the Court can consider the continued employment of the Debtors'
5 Professionals, if necessary.

6 Respectfully submitted this 24th day of July, 2006.

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